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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,635	12/11/2001	Helmut Ruckert	AP9673	3938

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EXAMINER

PEZZLO, BENJAMIN A

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,635

Applicant(s)

RUCKERT ET AL.

Examiner

Benjamin A Pezzlo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 18-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
page 8, line 34, "a" should appear between "makes" and "catch";
page 10, the title should be removed from the page; and,
page 10, "Abstract of the Disclosure" should be changed to "Abstract".
Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, in line 2, "being" renders the claim vague and should be deleted.
4. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, in line 2, "with at least two portions thereof under spring bias" is unclear.

5. Claim 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, it is unclear which spring element is being provided with two portions under spring bias.

6. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the at least one *first* spring portion is the at least one spring portion under bias referred to in claim 18.

7. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, “with exactly one portion”, is unclear. It appears that the groove in the piston in applicant’s drawings goes completely around the piston.

8. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, “vertically to a piston axis” is unclear.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 18-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Maligne (US 5704452).

Maligne discloses a brake pad assembly including a retaining spring device coupled to the brake pad, the spring device for detachably coupling the brake pad to a piston of a spot-type disc brake the retaining spring device including at least one spring element 6 which includes, at least one portion, under spring bias, and wherein the at least one spring element is movable into abutment in a groove (located at the rear of the interior of the piston) in the piston, and is attached to the side of the brake pad by means of at least one retaining element 5, wherein the retaining element is configured as a retaining plate which is undetachably fastened to the brake pad (see Fig. 1) and has at least one integrated retaining member.

Re claims 19-20, see Fig. 1.

Re claim 21, see spring portion 612.

Re claim 22, see Fig. 2, the spring portions are opposite each other with respect to an axis of the piston axis. It is noted however, that the first spring portions of Maligne lack the quality of being diametrically opposed with respect to the longitudinal axis of the piston.

Re claim 23, see Fig. 2, spring portion 612 provides a perpendicular spring force.

Re claim 24, see Fig. 1.

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Re claim 25, see Fig. 2.

Re claim 26, see Fig. 2, the spring portions are opposite each other with respect to an axis of the piston axis. It is noted however, that the first spring portions of Maligne lack the quality of being diametrically opposed with respect to the longitudinal axis of the piston.

Re claim 27, the inner surface of the hook portion 612 provides a force to the pad which is vertical to the piston axis in the sense that the force is parallel to the longitudinal axis of the piston.

Re claim 28, see Fig. 1, it appears that the spring element is made of sheet metal.

Re claim 29, see Fig. 2, see the leader line from 50 which ends at the "hook" configured retaining member.

Re claim 30, see damping plate 5, note that the piston abuts the plate thereby providing damping between the plate and the friction material carrier.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Couvez, Leidecker et al., Weiler et al. ('140, '213, and '373), Schonenberger et al., Oltmanns Jr. et al., Winter, Evans, Matsuzaki, Matasumoto et al., Pickel, Emmett, Thiel et al., and Hinkens et al. disclose related devices.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP
November 13, 2002


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

11/14/02